



ARIZONA BOARD OF APPRAISAL

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MINUTES RULES COMMITTEE MEETING Friday, June 17, 2011 8:01 AM

Call to Order and Roll Call

Meeting called to order by Les Abrams, Chairman.

Committee members present at roll call:

Les Abrams
Debbie Rudd
James Heaslet
Michael Petrus

Staff Attendance:

Dan Pietropaulo – Executive Director
Jeanne Galvin – Assistant Attorney General
Amanda Benally – Staff

Dan Pietropaulo, Executive Director, updated the Committee on a few changes that occurred since the last meeting. Mr. Pietropaulo explained that he copied and pasted the definition from statute into rules for Appraisal Management Services and added appraiser to "fee paid by the client or appraiser" and added database to "part of an appraiser panel or database".

Mr. Pietropaulo explained that this has come up due to complaints from appraisers that some electronic services have not been paying and stating the original client has not paid the electronic service therefore the appraiser is due no payment from them. The electronic company takes orders from the lender, assigns the appraisal to the appraiser, collects the money and then pays the appraiser. In some cases the electronic company was unable to collect from the lender and then refused to pay the appraiser who now had no recourse to the lender for payment. The electronic companies state they do not have to register as they are only "facilitators" and "databases".

The Committee discussed the differences between companies such as Appraisal Port and Mercury Network and the fees charged by them. Mr. Pietropaulo read an email to the Board that he had received from a lender asking if Mercury Network should be registered as an appraisal management company.

Les Abrams asked if this would come down to a rule interpretation or something in statute that needs to be changed. Mr. Pietropaulo responded that it won't totally clarify the issue, and at some point this will need to be addressed, but we don't have all the information that we need at this point. Mr. Pietropaulo just wanted to alert the Committee to the situation and in the meantime he would like to add the definition with the proposed additions.

Ms. Rudd proposed that the issue be studied more and asked for counsel to look into the situation a bit closer. She asked Mr. Pietropaulo to look at how other states are handling online companies such as those discussed. Mr. Petrus asked that Mr. Pietropaulo also see if Appraisal Port and Mercury Network have legal opinions that would be helpful. Jeanne Galvin, Assistant Attorney General, advised the Committee that leaving the words "appraiser" and "database" in the rule might address the problem without rendering an opinion as to whether those companies are an appraisal management company. Mr. Petrus had an objection to putting appraiser in the definition because he doesn't want an appraisal company to be confused as an appraisal management company. Les Abrams made a motion to accept the changes to the definition. James Heaslet seconded the motion. The motion passed with one nay.

There was some discussion regarding minor changes to wording and the addition of requiring information on the principal office and other branch locations. Mr. Pietropaulo asked the Committee to consider the proposed modifications to the rule regarding reviewing the work of all independent appraisers performing services for the AMC, rather than removing the section entirely. There was some discussion regarding the requirement for a standard 3 review. The committee felt that the proposed changes would be fine.

Ms. Rudd asked that the word "shall" be removed from the rule stating an AMC shall disclose the actual fees paid to an appraiser. Ms. Galvin informed the Committee that it could change it to "Upon request of the AMC's client the AMC shall disclose the actual fees paid to an appraiser for appraisal services".

Mr. Pietropaulo asked that the Committee consider adding a new section of rule under fee; bond to include appraisal management companies who change their business name. This is a result of several name changes by registered AMCs and the confusion resulting in one bond covering more than one company name.

The Committee discussed the exemptions from the rule and if they should leave in the section regarding attorneys. Ms. Galvin advised that the Committee leave in the section regarding attorneys. Mr. Petrus mentioned that he would like to include in the exemptions section the business model of an appraisal shop. Mr. Heaslet was concerned that exempting appraisal shops might lead to some companies circumventing the AMC rules. Mr. Pietropaulo recommended that more research be done before it is addressed. Ms. Galvin stated that the Governor's Regulatory Review Council would ultimately determine if the exemption of attorneys is appropriate and explained that an attorney ordering an appraisal as part of litigation does not constitute them as an appraisal management company. She recommended that Committee not include the exemption of appraisal shops in the rule, but instead publish a substantive policy statement regarding the Board's position on appraisal shops.

Mr. Pietropaulo discussed the changes regarding the bond section. Mr. Heaslet asked if rules should require that the AMC prepay the bond for a year in advance. There was discussion regarding the effective date of the bond. The Committee determined that the bond shall be prepaid for 1 year at the time of application.

Ms. Rudd asked that the Committee accept the rest of the changes through page 9 of the 6/12/2011 draft rules as they were self explanatory. The Committee discussed if there will be an investigator. Mr. Pietropaulo informed them that as of right now he is the

investigator. He explained that the legislature approved a position for an investigator, but then took the money away to fund that position. Ms. Rudd asked that on Page 9, item 4, that "if applicable" be added. Ms. Galvin advised that it be "when applicable" and to change item 5 to read "Board staff may" instead of "Board staff shall". The Committee agreed to the proposed changes.

Mr. Pietropaulo suggested another rules committee meeting in July. The Committee agreed. Ms. Rudd suggested discussion regarding discipline of AMCs and what kind of sanctions to impose. Mr. Pietropaulo informed the Committee that he would make the changes they agreed upon and research discipline. Mr. Abrams suggested getting examples of what other states have done.

Adjournment

The meeting was adjourned.



Lester G. Abrams, Chairperson